

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 23 AUG 2004



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| Applicant's or agent's file reference 3293-01-WO | | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416) | |
| International application No. PCT/US 03/18720 | International filing date (day/month/year) 13.06.2003 | Priority date (day/month/year) 19.06.2002 | |
| International Patent Classification (IPC) or both national classification and IPC C07H15/08 | | | |
| Applicant THE LUBRIZOL CORPORATION et al. | | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
 - ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☒ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

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|---|--|
| Date of submission of the demand 16.01.2004 | Date of completion of this report 20.08.2004 |
| Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized Officer Klein, D Telephone No. +49 89 2399-7896  |

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/18720**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-8 as originally filed

Claims, Numbers

1-10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: english , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☒ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/18720**

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-10 |
| | No: Claims | --- |
| Inventive step (IS) | Yes: Claims | --- |
| | No: Claims | 1-10 |
| Industrial applicability (IA) | Yes: Claims | 1-10 |
| | No: Claims | --- |

2. Citations and explanations

see separate sheet

VI. Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US 03/18720

Re Item I

Basis of the opinion

Description, pages:

1-8 as originally filed

Claims, No.:

1-10 as originally filed

Re Item V

**Reasoned statement under Rule 66.2(a)(ii) with regard to novelty,
inventive step or industrial applicability; citations and explanations
supporting such statement**

Cited documents :

D1: US-A-5502175

D2: US-A-4687843

D3: US-A-5928657

novelty :

The subject-matter of the present application concerns of an ethoxylated alkylglucoside, the terminal OH moiety being partially derivatised by fatty acids.

Since none of the cited prior art discloses the claimed compounds, the subject-matter of the present application is considered new.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US 03/18720

Inventive step :

D1, which is considered to represent the closest prior art, discloses similar compounds for use in cosmetic formulation but having shorter polyethoxy chains. These compounds are used in shampoos and bathing preparations.

D2 show similar compounds (polypropoxylated compounds) used in cosmetology but having a sum of propoxy side chains ranging from 5-50. These compounds are known as moisturisers and emolients which are specially suitable in skin care formulations.

D3 also discloses similar compounds (ethoxylated compounds) with a sum of ethoxy side chains ranging from 15-150.

Therefore, D2 and D3 strongly suggest the use of longer polyethoxy side chains.

Thus, the subject-matter of the present application is merely considered as an adaptation (combination of the teaching of D1 and D2/D3) of the prior art and therefore the subject-matter of the present application is not considered inventive.

remark :

The comparative tests disclosed in the application (on page 8) compare the compounds of the present application with Cetiol HE , which is considered structurally too far from the compounds of the prior art to be taken into consideration.